

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE: )  
 )  
EASTERN LIVESTOCK CO., LLC, ) Case No. 10-93904-BHL-11  
 )  
Debtor. ) Hon. Basil H. Lorch III

**TRUSTEE’S MOTION TO APPROVE COMPROMISE AND SETTLEMENT  
WITH GLEN FRANKLIN**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee (the “Trustee”) for the bankruptcy estate of Eastern Livestock Co., LLC (the “Debtor”), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Glen Franklin (“Mr. Franklin”). In support of this Settlement Motion, the Trustee states as follows:

**Introduction and Background**

1. Certain petitioning creditors commenced the above-captioned chapter 11 case on December 6, 2010 (the “Petition Date”). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.
2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee’s Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.
3. The Trustee filed Adversary Proceeding No. 13-59070 (the “Adversary”) on December 2, 2013. The complaint in the Adversary seeks to recover \$125,602.22 from Mr. Franklin for his alleged breach of contract and \$2,844,396.31 from Mr. Franklin as the proceeds

of a transfer avoidable under Section 547, 548(a)(1)(A) and/or 548(a)(1)(B) of the Bankruptcy Code.

### **The Settlement**

4. The Trustee negotiated a settlement of the Adversary on the terms set forth in the Settlement Agreement attached hereto as Exhibit A (the “Settlement Agreement”). As more particularly described in the Settlement Agreement, Mr. Franklin has agreed to pay the Trustee \$20,000.00 to settle the Adversary.

### **Basis for Relief**

5. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

6. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc., 886 F.2d 921, 927 (7th Cir. 1989).

7. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. Mr. Franklin disputes all of the Trustee’s claims. Specifically, Mr. Franklin asserts an affirmative defense of setoff to the Trustee’s breach of contract claim and various defenses to the Trustee’s avoidance claims, including defenses under 11 U.S.C. §§ 546(e), 547(c)(1), 547(c)(2) and 547(c)(4). Continued litigation with Mr. Franklin would require significant additional expense

with no guarantee of any recovery to the estate. The Settlement Agreement provides for a cash recovery of \$20,000.00.

8. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

*Counsel for James A. Knauer, Chapter 11 Trustee*

Terry E. Hall (#22041-49)  
Kevin M. Toner (#11343-49)  
Harmony Mappes(#27237-49)  
300 N. Meridian Street, Suite 2700  
Indianapolis, IN 46204-1782  
Telephone: (317) 237-0300  
Facsimile: (317) 237-1000  
terry.hall@faegrebd.com  
kevin.toner@faegrebd.com  
harmony.mappes@faegrebd.com

Wendy W. Ponader (#14633-49)  
Dustin R. DeNeal (#27535-49)  
Kayla D. Britton (##29177-06)  
600 East 96th Street, Suite 600  
Indianapolis, IN 46240  
Telephone: (317) 569-9600  
Facsimile: (317) 569-4800  
wendy.ponader@faegrebd.com  
dustin.deneal@faegrebd.com  
kayla.britton@faegrebd.com

**CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2015, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt  
davidabt@mwt.net

Kay Dee Baird  
kbaird@kdlegal.com

C. R. Bowles, Jr  
cbowles@bgdlegal.com

Kent A Britt  
kabritt@vorys.com

Lisa Koch Bryant  
courtmail@fbhlaw.net

Deborah Caruso  
dcaruso@daleeke.com

Joshua Elliott Clubb  
joshclubb@gmail.com

Jack S. Dawson  
jdawson@millerdollarhide.com

David Alan Domina  
dad@dominalaw.com

Shawna M. Eikenberry  
shawna.eikenberry@faegrebd.com

Robert Hughes Foree  
robertforee@bellsouth.net

Thomas P. Glass  
tpglass@strausstroy.com

Paul M. Hoffman  
paul.hoffmann@stinsonleonard.com

Jeffrey L Hunter  
jeff.hunter@usdoj.gov

Todd J. Johnston  
tjohnston@mcjllp.com

Edward M King  
tking@fbtlaw.com

Theodore A. Konstantinopoulos  
ndohbky@jbandr.com

David L. LeBas  
dlebas@namanhowell.com

Elliott D. Levin  
edl@rubin-levin.net

Karen L. Lobring  
lobring@msn.com

Amelia Martin Adams  
aadam@dlgfir.com

Christopher E. Baker  
cbaker@thbklaw.com

David W. Brangers  
dbrangers@lawyer.com

Kayla D. Britton  
kayla.britton@faegrebd.com

John R. Burns, III  
john.burns@faegrebd.com

Ben T. Caughey  
ben.caughey@icemiller.com

Jason W. Cottrell  
jwc@stuartlaw.com

Dustin R. DeNeal  
dustin.deneal@faegrebd.com

Daniel J. Donnellon  
ddonnellon@ficlaw.com

Jeffrey R. Erler  
jerler@ghjhlaw.com

Sandra D. Freeburger  
sfreeburger@dsf-atty.com

Patrick B. Griffin  
patrick.griffin@kutackrock.com

John David Hoover  
jdhoover@hooverhull.com

Jay Jaffe  
jay.jaffe@faegrebd.com

Jill Zengler Julian  
Jill.Julian@usdoj.gov

James A. Knauer  
jak@kgrlaw.com

Randall D. LaTour  
rdlatour@vorys.com

Martha R. Lehman  
mlehman@kdlegal.com

Kim Martin Lewis  
kim.lewis@dinslaw.com

Jason A. Lopp  
jlopp@wyattfirm.com

John W. Ames  
james@bgdlegal.com

Robert A. Bell  
rabell@vorys.com

Steven A. Brehm  
sbrehm@bgdlegal.com

Joe Lee Brown  
Joe.Brown@Hardincounty.biz

John R. Carr, III  
jrciii@acs-law.com

Bret S. Clement  
bclement@acs-law.com

Kirk Crutcher  
kcrutcher@mcs-law.com

Laura Day Delcotto  
ldelcotto@dlgfir.com

Trevor L. Earl  
tearl@rswslaw.com

William K. Flynn  
wkflynn@strausstroy.com

Melissa S. Giberson  
msgiberson@vorys.com

Terry E. Hall  
terry.hall@faegrebd.com

John Huffaker  
john.huffaker@sprouselaw.com

James Bryan Johnston  
bjtexas59@hotmail.com

Jay P. Kennedy  
jpk@kgrlaw.com

Erick P. Knoblock  
eknoblock@daleeke.com

David A. Laird  
david.laird@moyewhite.com

Scott R. Leisz  
sleisz@bgdlegal.com

James B. Lind  
jblind@vorys.com

John Hunt Lovell  
john@lovell-law.net

Harmony A. Mappes  
harmony.mappes@faegrebd.com

Kelly Greene McConnell  
lisahughes@givenspursley.com

William Robert Meyer, II  
rmeyer@stites.com

Allen Morris  
amorris@stites.com

Matthew Daniel Neumann  
mneumann@hhclaw.com

Matthew J. Ochs  
kim.maynes@moyewhite.com

Ross A. Plourde  
ross.plourde@mcafeetaft.com

Timothy T. Pridmore  
tpridmore@mcjllp.com

Eric W. Richardson  
ewrichardson@vorys.com

Mark A. Robinson  
mrobinson@vhrlaw.com

Joseph H. Rogers  
jrogers@millerdollarhide.com

Nicole R. Sadowski  
nsadowski@thbklaw.com

Ivana B. Shallcross  
ishallcross@bgdlegal.com

James E. Smith, Jr.  
jsmith@smithakins.com

Joshua N. Stine  
kabritt@vorys.com

Meredith R. Theisen  
mtheisen@daleeke.com

Christopher M. Trapp  
ctrapp@rubin-levin.net

Andrew James Vandiver  
avandiver@aswdlaw.com

Charles R. Wharton  
Charles.R.Warton@usdoj.gov

Jason P. Wischmeyer  
jason@wischmeyerlaw.com

John Frederick Massouh  
john.massouh@sprouselaw.com

James Edwin McGhee  
mcghee@derbycitylaw.com

Kevin J. Mitchell  
kevin.mitchell@faegrebd.com

Judy Hamilton Morse  
judy.morse@crowedunlevy.com

Walter Scott Newbern  
wsnewbern@msn.com

Jessica Lynn Olsheski  
jessica.olsheski@justice-law.net

Brian Robert Pollock  
bpollock@stites.com

Anthony G. Raluy  
traluy@fbhlaw.net

Joe T. Roberts  
jratty@windstream.net

Jeremy S. Rogers  
Jeremy.Rogers@dinslaw.com

James E. Rossow  
jim@rubin-levin.net

Thomas C. Scherer  
tscherer@bgdlegal.com

Sarah Elizabeth Sharp  
sarah.sharp@faegrebd.com

William E. Smith, III  
wsmith@k-glaw.com

Andrew D. Stosberg  
astosberg@lloydmc.com

John M. Thompson  
john.thompson@crowedunlevy.com

Chrisandrea L. Turner  
clturner@stites.com

Andrea L. Wasson  
andrea@wassonthornhill.com

Sean T. White  
swhite@hooverhull.com

James T. Young  
james@rubin-levin.net

Michael W. McClain  
mmclain@mcclaindeweese.com

Brian H. Meldrum  
bmeldrum@stites.com

Terrill K. Moffett  
kendalcantrell@moffettlaw.com

Erin Casey Nave  
enave@taftlaw.com

Shiv Ghuman O'Neill  
shiv.oneill@faegrebd.com

Michael Wayne Oyler  
moyler@rwsvlaw.com

Wendy W. Ponader  
wendy.ponader@faegrebd.com

Eric C. Redman  
ksmith@redmanludwig.com

David Cooper Robertson  
crobertson@stites.com

John M. Rogers  
johnr@rubin-levin.net

Steven Eric Runyan  
ser@kgirlaw.com

Stephen E. Schilling  
seschilling@strausstroy.com

Suzanne M Shehan  
suzanne.shehan@kutakrock.com

Amanda Dalton Stafford  
ads@kgirlaw.com

Matthew R. Strzynski  
indyattorney@hotmail.com

Kevin M. Toner  
kevin.toner@faegrebd.com

U.S. Trustee  
ustpreion10.in.ecf@usdoj.gov

Jennifer Watt  
jwatt@kgirlaw.com

Michael Benton Willey  
michael.willey@ag.tn.gov

John D Dale, Jr.  
Johndaleatty@msn.com

I further certify that on May 26, 2015, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Thomas Richard Alexander, II  
tra@rgba-law.com

/s/ Dustin R. DeNeal